

**REMARKS**

In the Office Action dated February 15, 2008, the Examiner rejected claims 12-16, 18, 19, 22-26, 28, 29, 43 and 44 under 35 U.S.C. § 102(e) as being anticipated by SACKS (U.S. Patent Application Publication No. 2002/0016765); and rejected claims 2-6, 8, 9, 32-36, 38, 39, 41, 42, and 45 under 35 U.S.C. § 103(a) as being unpatentable over SACKS in view of the Examiner's Official Notice. Applicant respectfully traverses these rejections.

By way of the present amendment, claims 41, 42, 44, and 45 have been amended to improve form. Claims 2-6, 8, 9, 12-16, 18, 19, 22-26, 28, 29, 32-36, 38, 39, and 41-45 remain pending in the present application. In view of the above amendments and the following remarks, all pending claims are considered patentable over the cited SACKS reference for at least the reasons set forth in detail below. Reconsideration and timely allowance of all claims are respectfully requested.

**Rejections Under 35 U.S.C. § 102**

Claims 12-16, 18, 19, 22-26, 28, 29, 43 and 44 stand rejected under 35 U.S.C. § 102(e) as being anticipated by SACKS. Applicant respectfully traverses.

A proper rejection under 35 U.S.C. § 102 requires that a single reference teach *each and every aspect* of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present. See M.P.E.P. § 2131. SACKS does not disclose, either explicitly or inherently, each of the features recited in Applicant's claims 12-16, 18, 19, 22-26, 28, 29, 43 and 44.

For example, independent claim 43, recites a method for performing a monetary transaction including receiving payee identification information, user information, and amount information from a wireless device associated with a user; identifying a first account associated with the user based on the user information; prompting a payee device associated with the payee, for information relating to a second account associated with the payee based on the payee identification information; and transferring funds based on the amount information between the first account and the second account. SACKS does not disclose this combination of features, as required by 35 U.S.C. § 102.

For example, SACKS does not disclose or suggest receiving payee identification information and amount information from a wireless device associated with a user, as required by claim 43. In rejecting claim 43, the Examiner relies on paragraphs 0019 and 0038-0045 as well as claims 1, 5, and 8 of SACKS for allegedly disclosing this feature (Office Action, pg. 6). Applicant respectfully disagrees with the Examiner's interpretation of SACKS.

Paragraph 0019 of SACKS discloses:

[0019] FIG. 1 is a block diagram depicting one embodiment of the invention. In FIG. 1, buyer 102 first connects to seller or seller site 104 to make a purchase or arrange some other form of electronic transaction. Buyer 102 may employ virtually any type of communication or computing device, such as a computer (e.g., portable, handheld, desktop), a smart phone (e.g., WAP (Wireless Access Protocol)), a two-way pager, etc. Similarly, seller 104 may comprise any number, type or form of computer systems or web sites, using any type of application, web or communication server.

This section of SACKS disclose that buyers and sellers may use any type of computing device, such as desktop computers, handheld computers, or smart phones, to facilitate the payment processing system of SACKS. Contrary to the Examiner's interpretation, this

section of SACKS does not disclose or suggest receiving payee identification information, and amount information **from a wireless device associated with a user**, as recited in amended claim 43. In fact, paragraph 0019 does not disclose or suggest receiving any information from a wireless device, except perhaps a connection request received by a seller site 104.

Paragraphs 0038-0040 of SACKS disclose the overall flow for performing the third party payment processing using the system described in SACKS. More specifically, this section of SACKS discloses that a buyer first visits a seller's system (e.g., web site), selects a good or service to purchase, and initiates payment for the transaction by selecting a link on the seller's system. The buyer is then connected the third party payment processor. The third party payment processor then identifies whether the buyer is already registered with the third party payment processor and, if so, the buyer's identity is verified, using, for example, an account name/password associated with the buyer. If the buyer does not have an account, one may be established.

Once verified, the payment processor elicits payment from the buyer by prompting for a credit card or bank account as well as additional data, such as name address, telephone number, etc., that may be required to validate an identity for the financial transaction. Details of the transaction are then displayed and the transaction is processed upon selection by the buyer. At this point, funds are removed from the buyer's account and deposited in the seller's account with the system.

Contrary to the Examiner's allegations, this section of SACKS does not disclose or suggest receiving payee identification information and amount information **from a**

**wireless device associated with a user**, as recited in amended claim 43. Rather, SACKS appears to disclose that this information is received from the payee upon redirection of the buyer from the seller's web site to the third party processor. Nowhere does SACKS disclose or suggest that payee identification information or amount information are received from a wireless device associated with a user, as recited in claim 43.

For at least this reason, claim 43 is not anticipated by SACKS. Reconsideration and allowance of claim 43 are therefore respectfully requested.

Claims 12-16 and 18-19 depend from claim 43. Therefore, these claims are not anticipated by SACKS for at least the reasons given above with respect to claim 43.

Independent claim 44 recites features similar to (yet possibly different in scope than) features recited above with respect to claim 43. Therefore, claim 44 is not anticipated by SACKS for reasons similar to the reasons given above with respect to claim 43.

Claims 22-26, 28, and 29 depend from claim 44. Therefore, these claims are not anticipated by SACKS for at least the reasons given above with respect to claim 44.

**Rejections Under 35 U.S.C. § 103**

Claims 2-6, 8, 9, 32-36, 38, 39, 41, 42, and 45 were rejected under 35 U.S.C. § 103(a) as being unpatentable over SACKS in view of the Examiner's Official Notice. Applicant respectfully traverses.

Independent claim 42, as amended, is directed to a monetary transaction system comprising a payment processing system configured to: receive payee identification information, user information, and amount information from a wireless device associated

with the user, where the user information further includes information identifying the wireless device, identify a first account associated with the user based on the user information including the received wireless device identification information, identify a second account associated with the payee based on the payee identification information, transfer funds based on the amount information between the first account and the second account, and send a notification of the transfer of the funds to the wireless device, the notification including an itemization of goods or services associated with the transfer. SACKS does not disclose or suggest this combination of features.

For example, SACKS does not disclose or suggest a payment processing system configured to identify a first account associated with the user based on the user information including the received wireless device identification information, as recited in amended claim 42. The above-recited feature of claim 42 is similar to (yet possibly different in scope than) a feature presented in prior claim 41. In rejecting claim 41, the Examiner relies on paragraph 0019 of SACKS for allegedly disclosing receiving information identifying a device (Office Action, pg. 6). Applicant respectfully disagrees with the Examiner's interpretation of SACKS.

Paragraph 0019 of SACKS is reproduced above. This section of SACKS disclose that buyers and sellers may use any type of computing device, such as desktop computers, handheld computers, or smart phones, to facilitate the payment processing system of SACKS. Contrary to the Examiner's interpretation, this section of SACKS does not disclose or suggest receiving wireless device identification information or identifying a

first account associated with the user based on the user information including the received wireless device identification information, as recited in amended claim 42.

Even assuming *arguendo* that the payment processing system of SACKS may be fairly interpreted as disclosing receiving device identification information (a point that Applicant does not concede), there is absolutely no disclosure or suggestion of identifying a first account associated with the user based on the user information including the received wireless device identification information, as recited in amended claim 42.

The Examiner's alleged Official Notice does not remedy this deficiency in the disclosure of SACKS. Accordingly, for at least the reasons set forth above, claim 42 is patentable over SACKS. Reconsideration and allowance of claim 42 are therefore respectfully requested.

Claims 2-6, 8, and 9 depend from claim 42. Therefore, these claims are patentable over SACKS for at least the reasons given above with respect to claim 42.

Independent claim 45 has been amended to recite features similar to features recited above with respect to claim 42. Accordingly, claim 45 is patentable over SACKS for reasons similar to the reasons given above with respect to claim 42.

Claims 32-36, 38, 39, and 41 depend from claim 45. Therefore, these claims are patentable over SACKS for at least the reasons given above with respect to claim 45.

### **Conclusion**

As Applicant's remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicant's silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g.,

whether a reference constitutes prior art, assertions as to dependent claims, alleged reasons for modifying a reference and/or combining references, etc.) is not a concession by Applicant that such assertions are accurate or such requirements have been met, and Applicant reserves the right to analyze and dispute such assertions/requirements in the future.

In view of the foregoing amendments and remarks, Applicant respectfully requests the Examiner's reconsideration of this application, and the timely allowance of the pending claims.

In the event that the application is not believed to be in condition for allowance, the Examiner is invited to contact Applicant's representative at the number shown below to expedite prosecution of this application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

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